REMARKS/ARGUMENTS

The present amendment is submitted in an earnest effort to advance the case to issue without delay.

New independent claim 19 is essentially a combination of claims 1 and 13. Dependent claims 20-22 recite an Air Permeability ranging from 500 to 1,000. Support is found at page 14, paragraph [00032].

Claims 1, 3-4 and 7-18 were rejected under 35 U.S.C. § 112, first paragraph. The term "synthetic fibers" was said to constitute new matter. Applicants traverse this rejection.

There is no dispute regarding support for the term "polypropylene fibers". Polypropylene is a species of synthetic fiber and representative of the generic synthetic fiber category. Those of skill in the art well understand that polypropylene is representative of synthetic fibers. Indeed, the Examiner has cited Bouchette (U.S. Patent 6,110,848) for the proposition that synthetic fibers would be a replacement for wood pulp, and that polypropylene is recognized as a synthetic fiber. Based on the Bouchette citation, there can be little doubt that those skilled in the art equate polypropylene as a synthetic fiber and that the generic term is implied into the specific fiber example.

There is a still further reason for not considering "synthetic fibers" as new matter. Applicants' specification at page 8, paragraph [00022] lists a series of patent publications which are "all herein incorporated by reference". These all explicitly disclose "synthetic" fibers and identify polypropylene as a representative one. See U.S. Patent 6,280,757 (McAtee et al.) at column 5, lines 35 and 47; U.S. Patent 5,980,931

(Fowler et al.) at column 5, lines 55 and 67; WO 00/42961 (Smith) at page 6, lines 1 and 8; and WO 01/08542 (Cen et al.) at page 41, line 32, bridging to page 42, line 2. Based on support from these incorporated references, the term "synthetic fibers" of the present claims would not constitute new matter.

Claims 1, 3-4, 14 and 17 were rejected under 35 U.S.C. § 103(a) as unpatentable over Suskind et al. (U.S. Patent 4,808,467) which is equivalent to EP 0 308 320 A in view of Bouchette (U.S. Patent 6,110,848). Applicants traverse this rejection.

Suskind is focused upon a textile containing wood pulp. Throughout the reference wood pulp is given great emphasis. See column 1 (lines 6, 10, 14, 59 and 65), column 2 (lines 14-15, 32, 37, 39, 42, 46, 50, 63 and 66-67), column 3 (lines 1, 46, 53, 60, 63 and 68), column 4 (lines 38 and 40) as well as all the independent claims (i.e. claims 1, 13 and 14). Without exception the Examples all require an outer wet laid web of at least 60% wood pulp. The problems, objectives and solutions in Suskind all involve issues of wood pulp fibered textiles.

By contrast, the presently claimed invention is a hydroentangled textile formed of only synthetic fibers such as polypropylene on both sides. There is no wood pulp problem that is being solved nor is wood pulp incorporated into this textile. Anyone skilled in the art in developing a non-wood pulp containing textile would not consider Suskind as a relevant reference. The properties and effective use of wood pulp based fabric is quite distinct from essentially totally synthetic fibered textiles.

Suskind does not disclose the Air Permeability of 300 to 1000. Applicants have demonstrated the special effectiveness for samples having an Air Permeability within the claimed range. Attention is drawn to the present specification at page 13. The Table under paragraph [00032] compares Air Permeability to Lather Release. Samples I and VI with Air Permeabilities of respectively 266 and 250 had poor ratings for Lather Release. Performance began to increase to at least a fair level above these values. For instance, samples IV and V with Air Permeability values of 371 and 341 revealed fair Lather Release properties. Further improvements were seen through sample II, III and VII with respective Air Permeability of 477, 678 and 529.

Suskind appears to use the same Air Permeability ASTM D737 test as utilized by applicants. Example 4 of Suskind reports an Air Permeability value of 148. See Table III. Example VI reports resultant fabric with Air Permeability of 248. See Table V. These values are less than the minimum 300 value required by the claims. Moreover, applicants have demonstrated that even the highest Air Permeability value of Suskind, i.e. 248 will result in a poor Lather Release result. Compare applicants' Sample VI at page 13.

The Examiner argues that Air Permeability can be manipulated by those of ordinary skill in the art. Examples 4 and 5 of the reference were cited as evidence. Example 4 was identified as utilizing a support woven transfer belt with lower air permeability than the one used in Example 5. The resultant fabric of Example 4 gave a non-apertured appearance while that of Example 5 appeared apertured. From these teachings, the Examiner considered that those of ordinary skill could modify permeability with the motivation of producing a material with a higher degree of absorption capacity.

Applicants consider inappropriate any comparison between the composite fabrics of Examples 4 and 5. In Example 4, the resultant composite fabric is a sandwich of three layers. The middle layer which has been supported on an 200 cfm air permeability transfer belt becomes an internal layer. Surface characteristics of this middle layer are internal; the surface cannot be seen. Any nonapertured appearance and soft/pliable properties are that of the composite.

By contrast, Example 5 has only two layers. One of those layers (necessarily an outer one) undoubtedly has the imprint of the transfer belt. This imprint may indeed be gauze like in appearance. One does not know whether that gauze like appearance would exist if it were sandwiched with a third layer and would no longer represent an outer surface. Thus, the Examiner's analogy between examples 4 and 5 is significantly deficient.

Bouchette discloses a three layered hydroentangled web. The outer plys are of synthetic fiber and sandwich a wood fiber pulp layer. The disclosure mentions that the middle layer could comprise short length cellulosic fiber or optionally short length synthetic fiber. See column 1, lines 7-10 and column 3, lines 10-11. Based on this disclosure, the Examiner contends that the wood pulp of Suskind could be replaced by synthetic fiber.

Applicants agree that Bouchette does disclose the possibility of substituting wood pulp for synthetics in the middle layer. Yet those reading this reference would hardly elect synthetic fiber as the choice of fiber. Bouchette is riddled with strong suggestion to utilize wood pulp as a middle layer of a three ply sandwiched web. The representative drawing (Fig. 9) is placed on the cover sheet. Fig. 9 clearly emphasizes "Short Fiber Wood Pulp". Also, all of the inventive examples of Bouchette (identified as

Hx4A, Hx5, and Hx10) have at least 60% wood pulp. See Table 1 and column 4, lines 48-51.

A combination of Suskind in view of Bouchette would not render the instant invention obvious. Neither Suskind nor Bouchette disclose the Air Permeability of 300 to 1,000. Applicants have demonstrated the special effectiveness of samples having an Air Permeability within the claimed range. Secondly, Suskind gives great emphasis to the use of wood pulp. Without exception the Examples all require an outer wet laid web of at least 60% wood pulp. The problems, objective and solutions in Suskind all involve issues of wood pulp fibered textile. Bouchette similarly emphasizes the use of wood pulp fibers. Although a possible substitution with synthetic fibers is disclosed as possible, the whole tone of Bouchette is to overcome a wood pulp fiber problem without eliminating wood pulp. This is seen in the sole diagram of a hydroentangled web cross-section and in the comparative examples. There simply is no teaching or incentive for Suskind to delete wood pulp based on the Bouchette disclosure which is riddled with wood pulp technology. Based on all the foregoing considerations, those skilled in the art would not have arrived at the present claims in consideration of the combined references.

Clams 7-9, 12, 16 and 18 were rejected under 35 U.S.C. § 103(a) as unpatentable over Suskind et al. and Bouchette, and further in view of Wagner et al. (U.S. Patent 5,951,991). Applicants traverse this rejection.

The Examiner has correctly noted that Suskind et al. does not disclose or teach cleansing compositions comprising a lathering surfactant for use with a non-woven hydroentangled textile.

Wagner et al. was cited for disclosing lathering surfactants combined with hydroentangled textiles.

There are countless textiles available. Wagner et al. itself provides a formidable list of suitable textiles. See column 5 (line 60) bridging to column 8 (line 42). None of the recited water insoluble substrates have a construction of any similarity to that of Suskind. Indeed, Suskind under Example 4 compares the inventive fabric favorably against a commercially available textile identified as Sontaro® from the Dupont Company. In Wagner one of the suitable substrates is also Sontaro®. See column 8 (line 4). While the Wagner reference to Sontaro® might not be a teaching away, nonetheless this indicates that those skilled in the art would not obviously be led to the Suskind textiles for use with a lathering surfactant fabric.

Neither Suskind nor Wagner et al. nor Bouchette disclose the Air Permeability of 300 to 1,000. Applicants have demonstrated the special effectiveness for samples having an Air Permeability within the claimed range. Attention is drawn to the present specification at page 13. The Table under paragraph [00032] compares Air Permeability to Lather Release. Samples I and VI with Air Permeabilities of respectively 266 and 250 had poor ratings for Lather Release. Performance began to increase to at least a fair level above these values. For instance, samples IV and V with Air Permeability values of 371 and 341 revealed fair Lather Release properties. Further improvements were seen through sample II, III and VII with respective Air Permeability of 477, 678 and 529.

Suskind appears to use the same Air Permeability ASTM D737 test as utilized by applicants. Example 4 of Suskind reports an Air Permeability value of 148. See Table III. Example VI reports resultant fabric with Air Permeability of 248. See Table V.

These values are less than the minimum 300 value required by the claims. Moreover, applicants have demonstrated that even the highest Air Permeability value of Suskind, i.e. 248 will result in a poor Lather Release result. Compare applicants' Sample VI at page 13. Anyone skilled in the art would not have obviously arrived at the presently claimed invention from consideration of the Suskind teachings or their combination with Wagner and Bouchette.

Claims 10 and 11 were rejected under 35 U.S.C. § 103(a) as unpatentable over Suskind et al., Bouchette and Wagner, and further in view of Bergquist (US Patent 6,723,330 B2). Applicants traverse this rejection.

None of the three references discloses a textile having the claimed Air Permeability range. Applicants have shown special utility for a textile structured with the claimed high and low basis weight and 300 to 1000 Air Permeability. See comparative tests under the Example of the present specification.

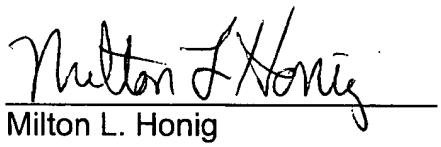
Suskind et al. provides no suggestion or teaching that the textile disclosed therein would have any utility as a personal cleansing article. Those skilled in the art viewing the enormous literature of textile technology would not have selected the Suskind et al. fabric to deliver a formulation with surfactant or foaming ingredients.

Brooks was specifically cited for teaching non-woven hydroentangled synthetic fibers such as polypropylene. The present independent claims require that the areas of higher basis weight which sandwich the central area of low basis weight consist only of synthetic fibers. Suskind et al. is emphatic throughout the full text, Examples and claims that any areas of higher basis weight must include wood pulp. Indeed, wood pulp fibers are the essence of Suskind et al. Therefore, anyone skilled in the art using

Suskind as primary reference would be led away from utilizing solely synthetic fibers in the areas of higher basis weight. Suskind et al. teaches away from any suggestion in Brooks to utilize synthetic fibers as the sole fibers type.

In view of the foregoing amendment and comments, applicants request the Examiner to reconsider the rejection and now allow the claims.

Respectfully submitted,



Milton L. Honig
Registration No. 28,617
Attorney for Applicant(s)

MLH/sm
(201) 894-2403